IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

OP.No. 14209 of 2001(N)

PETITIONER:

P.MOOSA, S/O.ABDUL RAHIMAN,
MUNDALAPPARA HOUSE,
MULIYAR POST,
KASARGOD TALUK.

BY ADV. SRI.M.SASINDRAN
SRI.K.MANOJ CHANDRAN

RESPONDENTS:
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1. THE ASSISTANT EXCISE COMMISSIONER,
KASARAGOD.

2. THE ADDITIONAL EXCISE COMMISSIONER,
TRIVANDRUM.

BY GOVERNMENT PLEADER SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON 12/03/2007 DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.22585/2001 IN O.P. NO.14209/2001

DISMISSED:

12.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE VEHICLE.

P2: TRUE COPY OF THE NOTICE DT.19.5.2000 OF R2.

P3: TRUE COPY OF THE JUDGMENT OF JFCM, KASARGOD IN C.C. NO.822/97.

P4: TRUE COPY OF THE ORDER DT.20.7.2000 OF R2.

P5: TRUE COPY OF THE ORDER DT.21.3.2001 OF R1.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.14209 of 2001

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Dated this the 12th day of March, 2007.

JUDGMENT

The petitioner is challenging Ext.P5 order whereunder the Additional Excise Commissioner has confirmed confiscation order issued under Section 67(B) of the Abkari Act confiscating petitioner's autorickshaw bearing registration No.KL-14/7112 which was used for transport of 470 packets of arrack of 100 ml. each.

2. I heard counsel for the petitioner and Government Pleader and also gone through the confiscation order and the order in appeal. Even though counsel for the petitioner contended that the petitioner had entrusted the autorickshaw with the driver and the driver is also not charge-sheeted, still I do not think petitioner can successfully oppose confiscation because the autorickshaw was admittedly carrying arrack at the time of seizure. Having regard to the facts found and the quantity of arrack involved, there is no scope for interference with the impugned orders. However, since the petitioner is using the vehicle for the last nearly six years after confiscation, there will be direction to the respondents to treat the confiscation as notional and adjust the security furnished by the petitioner towards value of

the vehicle and allow the petitioner to retain the vehicle.

The O.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms